

EXHIBIT 2

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

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AT CHARLESTON

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RE: ETHICON, INC, PELVIC,) Master File No.

REPAIR SYSTEM PRODUCTS) 2:12-MD-02327

5

LIABILITY LITIGATION) MDL 2327

_____)

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THIS DOCUMENT RELATES TO THE
FOLLOWING CASES IN THE WAVE 1

7

OF MDL 200:

TERI KEY and JOHN SHIVELY,) Case No.

8

) 2:12-cv-00379

Plaintiffs,)

9

vs.)

ETHICON, INC., ET AL.,) JOSEPH R. GOODWIN

10

) U.S. DISTRICT JUDGE

Defendants.)

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_____/

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VIDEOTAPED DEPOSITION OF NATHAN W. GOODYEAR, M.D.

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March 3, 2016

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9:15 a.m. to. 3:30 p.m.

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TRACY IMAGING

20

KNOXVILLE, TENNESSEE

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Michele Faconti, RPR, LCR (667)

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1 an approach to medicine that is more of an
2 integrative approach to medicine rather than a
3 management.

4 Q. And so it's an organization. You're a
5 member of that organization?

6 A. I am not.

7 Q. Okay. But you were asked to present for
8 that organization?

9 A. That's correct. That's correct.

10 Q. And you've done that on a couple of
11 occasions?

12 A. Correct.

13 Q. And what's the conclusion of your book?

14 A. Well, to say there's one conclusion is
15 really not appropriate. What it is, is it's simply
16 a review of the literature, what is the causation of
17 low testosterone in men.

18 Q. And is that a focus -- obviously a focus
19 of yours?

20 A. Currently?

21 Q. Yes.

22 A. It's a part.

23 Q. Okay. What are your other current
24 focuses?

1 A. The majority of my clinical practice right
2 now is dealing with ladies.

3 Q. Okay. And when you say "dealing with
4 ladies," what does that mean?

5 A. That means it's a primary 60 percent
6 pelvic gynecological practice. It's an office-based
7 practice dealing with weight issues, dealing with
8 menopausal issues, perimenopausal, PCOS,
9 infertility, metabolic syndrome, hypertension,
10 diabetes.

11 Q. Are you doing surgery?

12 A. No.

13 Q. Why not?

14 A. Because my experience with everything
15 involved here with the mesh, I lost faith in the
16 collaboration between the businesses and physicians
17 in terms of honesty, trustworthiness of the
18 information relayed, and so I transitioned out of
19 that aspect of my practice.

20 Q. Okay. So you lost faith in the honest --
21 I'm sorry?

22 A. The ability to give us accurate
23 information as it relates to the literature. That
24 led to this book, which is I'm not going to take

1 something to blame.

2 Q. And if you're sued, does that mean that
3 something's wrong, that you did something wrong?

4 A. Not necessarily.

5 Q. So that you don't guarantee outcomes to
6 your patients?

7 A. I don't guarantee. I quote what the
8 literature available tells us.

9 Q. I'm sorry?

10 A. I quote what the literature available to
11 us tells us.

12 Q. The literature available. And based on --
13 you just -- what's the literature --

14 A. IFUs, you know, collaboration with
15 representatives from the company. Scientific
16 literature. My expertise, my education, etcetera.

17 Q. Okay. So you are looking big picture and
18 providing information to your patients. You're
19 relying on IFUs. That would be instructions for use
20 you may get from a manufacturer, you rely on what
21 you learn from the manufacturer, you rely on your
22 own experience, you rely on the literature --

23 A. Uh-huh.

24 Q. -- and what you learn from colleagues,

1 was a gentleman when I was in Louisiana, again,
2 don't recall his name.

3 Q. Now, did these individuals ever mislead
4 you?

5 A. I don't know.

6 Q. Okay. I'm just trying to -- if you had
7 concerns or that they misled you in any way?

8 A. There was information that I started to
9 question.

10 Q. Okay. So did you ask them about the
11 information?

12 A. I asked them about some of the
13 complications that I was having, yes.

14 Q. And tell me about those complications.
15 Erosion?

16 A. The erosion.

17 Q. And this is, again, just so I -- we're
18 going back to the time you were at that conference
19 in Salt Lake --

20 A. Uh-huh.

21 Q. -- and you were being told that the
22 erosion rates were less than five percent at that
23 conference, correct?

24 A. That's correct.

1 Q. And that's by the company, by the
2 Ethicon group?

3 A. That was by the people directing the
4 meetings, the roundtables.

5 Q. Individuals from Ethicon?

6 A. Correct.

7 Q. This time frame, again, was in the 2005
8 time period?

9 A. The meeting?

10 Q. Yes.

11 A. No, 2007.

12 Q. You did say that. 2007.

13 And you took issue with some of what they
14 were saying and discussed that with some of your
15 other colleagues?

16 A. Yes, correct, several of us took issues
17 with it.

18 Q. Because your erosion rates were higher?

19 A. Correct.

20 Q. And you'd been seeing this for about, I
21 think you said, six months before the time you
22 appeared at that meeting in 2007?

23 A. You asked for an estimate, so I --

24 Q. Yeah, that's fair.

1 Okay. So back to my questions about the
2 reps. Just I wondered if you had any specific
3 allegations about any of the reps that you dealt
4 with doing something that was inappropriate or
5 misleading you?

6 A. Specific, no.

7 Q. Okay. But you did from time to time
8 challenge them? If they told you something,
9 you'd challenge them?

10 A. Yes.

11 Q. And, for example, with erosion, and how
12 did they respond?

13 A. So, for example, I can briefly vaguely
14 remember a conversation where, say, okay, I remember
15 him saying the erosion rates were X. My erosion
16 rates seemed to be running higher. What am I doing
17 through my surgical procedure that may do that? He
18 said, "Nothing. We send physicians to you to
19 train."

20 Q. Okay.

21 A. So --

22 Q. All right. Now, you talked about around
23 300 Ethicon procedures that you've done over the
24 years?

1 A. Just --

2 Q. Approximately?

3 A. It's probably higher if you include
4 residency in there. I was sticking at clinical.

5 Q. That's fair. And how many of these were
6 you -- in how many of those 300 have you had
7 complications?

8 A. That's -- that's hard to say.

9 Q. Okay.

10 A. Because if they didn't follow up, I don't
11 know.

12 Q. Okay. Based on those who followed up?

13 A. Based on those who followed up that I'm
14 aware of?

15 Q. Yes, sir.

16 A. Okay. Well, what's your definition of a
17 complication?

18 Q. That's a good question. What is your --
19 let's say complication. Let's say erosion.

20 A. As I told you, it's about 15 to
21 20 percent.

22 Q. And this is, again, in what time period?

23 A. Basically from really starting in two --
24 talked about 2006 sometime and beyond.

1 Q. All right. And then any other -- let's
2 see.

3 Did you keep track of these complications,
4 talking about the erosion right now?

5 A. I told the rep about them.

6 Q. But did you internally -- do you have any
7 kind of documentation or objective data that would
8 verify that?

9 A. That's what the medical charts are for.

10 Q. Right. Aside from your medical charts, do
11 you have any compilation of the data where you've
12 had a 15 to 20 percent erosion rate beginning in the
13 2006 time period?

14 A. I didn't do an IRB-approved study, no.

15 Q. Even outside of an IRB, do you just have
16 some data that you collected?

17 A. No, I just reported and let them --

18 Q. And you said "reported." Did you file
19 adverse event reports?

20 A. No, I'd just tell the rep about it.

21 Q. Just told the rep.

22 Are you aware of any other patients that
23 have filed lawsuits against Ethicon other than the
24 four patients in this matter?

1 these cases and work with us as an expert; is that
2 correct?

3 A. That is correct.

4 Q. Doctor, in the course of our interactions
5 over the last several months, has anybody from my
6 firm, including myself, tried to influence your
7 opinions, direct your opinions or shape your
8 opinions in any fashion?

9 A. No.

10 Q. Are your opinions as you express in this
11 case yours?

12 A. They are.

13 Q. Okay. Now, Doctor, at all times that you
14 performed surgery on the patients that are subject
15 of our litigation, okay, were you board certified in
16 OB/GYN at all times?

17 A. Yes.

18 Q. Okay. And when you performed those
19 surgeries, you had a very active pelvic floor
20 surgery practice?

21 A. Yes.

22 Q. Okay. Now, today in your current
23 practice, do you still see female patients?

24 A. I do.

1 Q. What percentage of your practice is female
2 patients?

3 A. Roughly 60 to 70 percent.

4 Q. Okay. In that practice, do you do
5 OB/GY -- or, excuse me, gynecological exams?

6 A. I do.

7 Q. And in those patients that you do
8 gynecological exams, do you do non-surgical
9 treatment of gynecological conditions that you find
10 on examination?

11 MS. MOORE: Object to the form.

12 THE WITNESS: I do.

13 BY MR. KOTT:

14 Q. Okay. And the non-surgical treatments you
15 do can involve medications, things of that nature?

16 A. That's correct.

17 MS. MOORE: Object to the form. Leading.

18 Q. Okay. Now, Doctor, in your current
19 practice, what do you do when you have a patient
20 that you find has a surgical problem, that needs
21 surgical treatment, a lady comes in, has a
22 gynecological problem, what do you do in that
23 setting?

24 A. I refer them out.

1 Q. And you have doctors that you refer them
2 to?

3 A. That's correct.

4 Q. Now, you were questioned at length about
5 your CV and your qualifications in this case to give
6 expert opinions; is that correct?

7 A. Yes.

8 Q. Were you ever questioned about any
9 connection you had to Ethicon and your training that
10 was done by Ethicon?

11 A. No.

12 Q. Okay. Were you, in fact, trained by
13 Ethicon in their procedures?

14 A. I was.

15 Q. Okay. In addition to being trained by
16 Ethicon, did Ethicon ever hire you to be an
17 instructor and teach other doctors how to do these
18 procedures?

19 A. Yes, they did.

20 Q. Okay. That's -- I'll withdraw that
21 question.

22 A. Okay.

23 Q. Doctor, I'm going to hand to you a
24 document.